

55. (New) The system of claim 38, wherein the reporter protein is selected from the group consisting of β -galactosidase, firefly luciferase, alkaline phosphatase, chloramphenicol acetyl transferase, β -glucuronidase, green fluorescence protein and active portions thereof.

56. (New) The system of claim 38, wherein the reporter protein is encoded by a bialophos resistance gene that confers resistance to the herbicide BASTA.

57. (New) The system of claim 38, wherein the reporter protein is green fluorescence protein or an active portion thereof.--

REMARKS

Claims 7-10 and 23-57 are pending in this application upon entry of this amendment. Claims 7 and 38 are independent claims.

Claim 7 has been amended to more clearly define the claimed subject matter. The amendment to claim 7 is supported in the claim as initially filed as well as in the specification, for example, at paragraph [0046] and at paragraphs [0064] to [0066]. New claim 38 is an independent claim directed to a synthetic construct system for determining translational efficiencies of different codons. Claim 38 is supported in the specification at paragraph [0050], for example. New claims 23-37 and 39-57 further define the construct of claims 7 and 38, respectively, and are supported in the specification, for example at paragraphs [0054] to [0058] and [0064]. Applicants respectfully contend that the amendments and additions made herein do not incorporate new matter and entry of the amended and new claims is respectfully requested.

RESPONSE TO RESTRICTION REQUIREMENT

The Examiner has required restriction to one of five groups of claims (Groups I-V). While not necessarily agreeing with the Examiner regarding the distribution of the claims within these groups, Applicants hereby elect for prosecution in this case, without traverse, the claims of Group III (claims 7-10) without prejudice to the inclusion of the remaining claims in a related application.

An early examination and Notice of Allowance with respect to claims 7-10 and 23-57 are respectfully solicited.

Respectfully submitted,

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(Date)

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Enclosures



**Marked-Up Copy of Claim 7, As Amended
in the Response to the Office Action
Dated October 2, 2002**

7. Amended) A synthetic construct comprising a ~~reporter-regulatory~~
polynucleotide operably linked to~~fused in frame with~~ a tandem repeat of ~~individual~~ a codons
fused in frame with a~~wherein said~~ reporter polynucleotide that encodes a reporter protein,~~and~~
~~wherein said synthetic construct is operably linked to a regulatory polynucleotide.~~

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